HONOURABLE SRI G.S.SINGHVI

THE CHIEF JUSTICE

AND

HONOURABLE SRI JUSTICE

R.SUBHASH REDDY

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WRIT APPEAL No. 2081 OF 2005

Between:

Anant Prasad Ganeriwal and another

… Appellants

And

State of Andhra Pradesh, represented by its

Principal Secretary, Revenue (Endowments)

Department, Secretariat, Hyderabad

and others.

… Respondents.

::JUDGMENT::

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Counsel for appellants : Sri P.Yadgir Rao

Counsel for Respondent Nos.1to 5 : Sri P.Lakshma Reddy

Government Pleader for

Endowments

Counsel for Respondents No. 6 : Sri Vijay Kumar M.

Ganeriwal

Party-in-person.

12th December, 2005

Per G.S.Singhvi, C.J.

This appeal is directed against order dated 31.8.2005 passed by the learned Single Judge whereby he disposed of Writ Petition No.14033 of 2004 filed by the appellants with the direction that the Deputy Commissioner, Endowments, shall decide the claim of the writ petitioners for being recognized as members of the founder's family and other related issues within a period of three months after notice to the respondents.

A perusal of the record shows that the appellants had filed the writ petition for quashing order dated 25.6.2004 passed by Regional Joint Commissioner, M.Z.No.III, Endowments Department (respondent No. 3), by making the following assertions:

i. Their ancestors had constructed Sree Ramachandra temple at Sitarambagh, Hyderabad almost hundred years ago;

ii. Their father was managing the affairs of the temple as sole hereditary trustee;

iii. After their father's death, they were recognized as sole hereditary trustees by jurisdictional Deputy Commissioner-cum-Registrar of Public Trusts, Amaravati;

iv. The trust was registered under Madhya Pradesh Public Trusts Act, 1951. Later on, the temple was registered under Hyderabad Endowments Regulations and Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966;

v. On coming into force of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), the trusteeship stood abolished. However, no person was recognized from the family of the founder of the institution for the purpose of appointment as member of the Board of Trustees;

vi. After the Judgment of the Supreme Court in **Pannalal Bansilal Patil v. State of A.P.**, they applied to Assistant Commissioner (Twin Cities), Hyderabad seeking recognition as members of the founder's family of Sree Ramachandra Temple;

vii. By an order dated 15.6.1998, they were recognized as members of the founder's family. Revision Petition No.24 of 1999 filed by the 6th respondent, namely, Vijay Kumar M. Ganeriwal was dismissed as barred by limitation;

viii. R.P.Nos.79 and 70 of 1999 filed by 6th and 7th respondents respectively under Section 92 of the 1987 Act were also dismissed by the Regional Joint Commissioner, MZ.No.III, Endowments Department (Respondent No.3). However, on an application filed by 6th respondent, State Government *suo motu* initiated proceedings and registered the same as R.P.No.323 of 1999 which was allowed vide order dated 5.6.2003 without giving them opportunity of hearing;

ix. W.P.No.15396 of 2003 filed against order dated 5.6.2003 was disposed of by the High Court on 25.9.2003 with a direction to respondent No.3 to dispose of the Revision Petitions within three months;

x. After remand, respondent No.3 passed order on 25.6.2004 by which he directed Deputy Commissioner having jurisdiction in the matter to make inquiry and decide the question of membership of founder's family.

According to the appellants, order dated 25.6.2004 passed by respondent No.3 suffer from a patent error inasmuch as in terms of the directions given by the Court on 25.9.2003, he was required to decide the matter and the same could not have been entrusted to the Deputy Commissioner (Endowments).

On a consideration of the pleadings of the parties and hearing their advocates, the learned Single Judge disposed of the writ petition by recording the following observations:

"It is brought to the notice of this Court by the learned Counsel for the petitioners that after the death of the petitioners' grand father, petitioners' father late Laxminivas Ganeriwal was recognized as sole hereditary trustee under relevant Hindu endowments Regulations. It is also brought to the notice of this Court that after the death of Laxminivas Ganeriwal, the petitioners have been managing the properties of the temple and this is a fact, which weighed with the Assistant Commissioner when he decided the matter in June, 1998. Therefore, it would be proper, in the interest of the institution, to allow both the

petitioners to manage the affairs of Sree Ramachandra temple, Sitarambagh, Hyderabad. The status quo should continue till the matter is finally decided by the Deputy Commissioner under Section 87(1)(h) of 1987 Act. The Deputy Commissioner of Endowments, the fourth respondent herein, is directed to dispose of the claim of the petitioners for being recognized them as members of founder's family after giving notice to the respondents, and other claims, within a period of three months from the date of receipt of a copy of this order."

The only argument advanced by the learned counsel for the appellants is that the learned Single Judge could not have issued direction to the Deputy Commissioner to decide the matter under Section 87(1)(h) of the Act because the amendments made in the Act by Amending Act 27 of 2002 are not retrospective in character.

In our opinion, there is no merit in the submission of the learned counsel. Admittedly, the appellants were recognized as members of the founder's family vide order dated 15.6.1998. That order was questioned by respondent No.6 on the ground that the same had been passed without giving him opportunity of hearing. The State Government *suo motu* took cognizance of the grievance made by respondent No.6 and allowed the application filed by him. Order dated 5.6.2003 passed by the State Government was modified in W.P.No.15396 of 2003 and direction was given for fresh adjudication of the revision petitions filed by respondents 6 and 7. Respondent No.3, to whom the matter was remitted, instead of deciding the matter, asked the jurisdictional Deputy Commissioner to make inquiry and decide the question of membership of the founder's family after giving opportunity of hearing to all the concerned parties. It is thus clear that when 2002 Act had come into force, the proceedings initiated at the instance of respondents 6 and 7 were already pending. Therefore, it cannot be said that the provisions of the Amended Act are not applicable to the present case.

In view of the above, we hold that the direction given by the learned Single Judge for final adjudication of the matter by the Deputy Commissioner after giving opportunity to the parties does not suffer from any grave legal infirmity and, in any case, no substantial failure of justice has been occasioned warranting interference by the Appeal Bench.

For the reason stated above, the appeal is dismissed.

Since the passing of final order by the Deputy Commissioner had been stayed by

this Court on 27.1.2005, we direct that the officer concerned shall pass appropriate order within two months from today. Government Pleader (Endowments) is directed to inform the concerned Deputy Commissioner that he is required to pass appropriate order within a period of two months from today positively.

G.S. SINGHVI, CJ

12th December, 2005

R. SUBHASH REDDY, J

Vr/vtv

Note: The Court Officer is directed to
furnish attested copies of the order
to the learned counsel for the parties

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